

REMARKS

This paper responds to the Office Action mailed on January 11, 2007. Claims 1-8 are pending in the application. Claims 1, 6 and 7 are amended. Claim 1 stands rejected under 35 U.S.C. § 112, first paragraph. Claim 1 also stands rejected under 35 U.S.C. §112, second paragraph. Claims 1, 2, 4, and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,212,368 to Ramesh et al. ("Ramesh") in view of U.S. Patent No. 6,799,026 to Scherzer et al. ("Scherzer"). Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramesh in view of Scherzer and further in view of U.S. Patent No. 7,079,507 to Toskala ("Toskala"). Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramesh et al. in view of Scherzer and further in view of U.S. Patent No. 6,771,944 to Harano ("Harano"). Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ramesh in view of Scherzer and further in view of U.S. Patent No. 6,985,473 to Vayanos et al. ("Vayanos"). Applicant respectfully traverses and requests reconsideration and withdrawal of the rejections.

First, Applicant thanks the Examiner for acknowledging the receipt of papers submitted under 35 U.S.C. § 119(a)-(d).

The Office Action rejects claim 1 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Office Action cites to claim 1's recitation that "the controller generates a period of time," noting that "time, or a fraction of it, as a period, is not possible to be generated, that is, created by any know mechanism" The Applicant has amended the claim by reciting that "the controller temporarily interrupts transmission and reception for a period of time." This amendment merely clarifies and does not narrow the scope of the claim. Accordingly, the Applicant respectfully urges reconsideration and withdrawal of the rejection.

The Office Action rejects claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite, stating that “the subject matter of ‘generating a period of time’ is unclear and not defined in the specification.” The Applicant urges reconsideration and withdrawal of the rejection in light of the clarifying amendment to claim 1, described above.

Claims 1, 2, 4, and 6 stand rejected over Ramesh in view of Scherzer. Claim 1 is the sole independent claim in the present application. The combination of Ramesh and Scherzer form the basis for all of the rejections under 35 U.S.C. § 103 in the present application, and Ramesh is the primary reference for each. Claim 1 recites “wherein the controller temporarily interrupts transmission and reception for a period of time without disconnection in data communication” and that “the reception level measuring section measures at least one of the antennas’ reception level except the receiving and/or transmitting antenna in the period of time.” Nothing in Ramesh nor Scherzer, each alone or in combination, teach or suggest these limitations.

The Office Action alleges that Ramesh discloses a controller that generates a period of time in which transmission and reception is temporarily interrupted without disconnection in the data communication, citing to column 4, lines 10-19 and column 7, lines 5-17. However, Ramesh does not teach or suggest either a controller that temporarily interrupts transmission and reception for a period of time or a reception level measuring section that measures at least one of the antennas’ reception in the period of time. Quite to the contrary, rather than teach or suggest any active interruption of transmission and reception, Ramesh urges or teaches maintaining transmission and reception of bits of information during measurement in the very portions of the reference cited by the Office Action.

Indeed, at column 4, lines 10-19 Ramesh states “. . . **measuring is timed to coincide with the transmission of invalid power control bits.**” If measuring coincides with transmission, then transmission is not interrupted. Similarly, in column 7, lines 5-17 Ramesh urges “in other words, **reception of the power control bits** is important to the proper operation of the system. Hence, **it might not be optimal to cease reception of the power control bits . . .** [t]he terminal strategically chooses to measure signal strength only during the last eight bits of the last sub-set before the desired frame.” Thus, not only does Ramesh fail to teach or suggest claim 1’s recitation that “the controller temporarily interrupts transmission and reception for a period of time without disconnection in the data communication,” but it actually teaches away from this limitation by urging **continued transmission of certain information, e.g., of power control bits**. The “strategic measurement” in Ramesh cited by the Office Action is expressly timed to occur during the transmission and reception of bits of information. There simply is no teaching for temporarily interrupting transmission and reception for a period of time, much less doing so without disconnection in the data communication or performing measurement during that period of time, as required by claim 1. As nothing in Scherzer cures the deficiency of Ramesh as applied to independent claim 1. Accordingly, Applicant urges reconsideration and withdrawal of the rejection thereto.

Claims 2, 4, and 6 each depend from claim 1. As nothing in Ramesh nor Scherzer cure the deficiency of these references as applied to claim 1, Applicant urges reconsideration and withdrawal of the rejections thereto. So too, claims 3, 5, and 7-8 all ultimately depend from independent claim 1. Nothing in Toskala (claim 3), Harano (claim 5) or Vayanos (claims 7-8) cure the deficiency of Ramesh and Scherzer as applied to independent claim 1. Therefore, the Applicant urges that all of the claims of the present application are presently in condition for allowance and urge reconsideration and withdrawal of the rejections thereto.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

No fee is believed to be due for this Amendment. Should any fees be required, please charge such fees to Deposit Account No. 50-2215.

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Respectfully submitted,

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